

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte: TIMOTHY A. MCDONOUGH, CARL J. LEDBETTER, ROBERT SCOTT PLANK,  
STEVEN W. FISHER, STEVEN T. KANEKO AND STEVEN BATHICHE

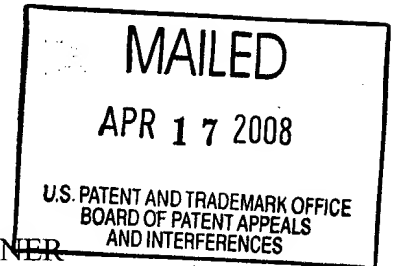
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Application No. 09/699,517

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was received at the Board of Patent Appeals and Interferences on April 16, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matter requiring attention prior to docketing is identified below.

**ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER**

**EXAMINER'S ANSWER**

On November 26, 2007, the Board of Patent Appeals and Interferences mailed an Order Returning Undocketed Appeal. One of the issues that mandated the "Order" was the Examiner's Answer mailed May 3, 2007, was defective in that it did not identify all of the references used in the rejection of the claims on appeal. Specifically, the Examiner's Answer failed to list the Suzuki (USPN 5890139) reference.

Application No. 09/699,517

This application has been returned to the Board of Patent Appeals for consideration of the Appeal. However, a review of the record continues to reflect the Examiner has failed to correct the Evidence Relied Upon section to date.

The Examiner may issue and mail a Form PTOL-90 to correct this appendix heading.

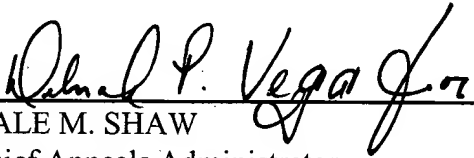
**CONCLUSION**

Accordingly, it is

**ORDERED** that the application is returned to the Examiner to:

- 1) issue and mail a PTOL-90 correcting the Evidence Relied Upon appendix (as identified above); and
- 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

  
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DMS/tsj

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